



FEDERATION OF ONTARIO  
LAW ASSOCIATIONS  
FÉDÉRATION DES ASSOCIATIONS  
DU BARREAU DE L'ONTARIO

June 26, 2020

Dear Real Estate Representatives, Presidents and Library Staff,

In an effort to keep real estate lawyers updated with the ever-changing situation, we have further information to be shared with the real estate lawyers in your association.

### **PAYMENT OF MORTGAGE DISCHARGES BY WIRE**

Great news!! Further to our update of June 12, 2020 confirming that RBC has implemented a new protocol to allow lawyers to pay mortgage discharges by wire, we have been advised that other lenders will also accept a wire transfer for the payment of mortgage discharge amounts:

- [Bank of Montreal](#)
- [Canadian Imperial Bank of Commerce](#)
- [CLMS](#)
- [Equitable Bank](#)
- [Royal Bank of Canada](#)

We understand that Scotiabank is also accepting payment of mortgage discharge funds by wire, but we have not received wire details/instructions.

We also encourage you speak with your own financial institution or those you regularly work with to determine if they will be making similar arrangements to avoid the need for someone to attend at the bank personally to provide discharge payments.

### **PAYMENT OF WIRE TRANSFER FEES**

There has been considerable debate regarding the payment of bank fees to send or receive wire transfers. It is FOLA's position that each lawyer should be responsible for the fees charged by their own bank with respect to sending or receiving wire transfers. FOLA's position matches that of the Provincial Working Group on Lawyers and Real Estate.

If no consensus is reached by the bar, lawyers may have to negotiate with each other on every transaction, since the incoming wire fees vary from lawyer to lawyer and bank to bank. How would the purchaser's lawyer know how much the vendor's lawyer's bank will charge for an incoming wire, if anything? Some lawyers have all incoming and outgoing wire fees included in their monthly account fees; others are required to pay a set amount to their bank for each wire transaction - and that set amount is not consistent among banks. We have heard of amounts ranging from \$15 - \$75 per wire.

This is no different from a purchaser's lawyer couriering funds to the vendor's lawyer where the purchaser's lawyer pays for the delivery of the funds to the vendor's lawyer. The full balance due is delivered to the vendor's lawyer's bank by wire, and the purchaser's lawyer pays whatever charges may be applicable by their bank for the delivery to the vendor's lawyer's bank. If the vendor's lawyer has an arrangement with their bank whereby fees are charged to

them to receive a wire, that is the responsibility of the vendor's lawyer. Such fees are, in our opinion, properly chargeable to a client as a disbursement.

### **REAL ESTATE LIAISON GROUP**

Eldon Horner and Merredith MacLennan attended a meeting of the Law Society's Real Estate Liaison Group earlier this week. The Real Estate Liaison Group is comprised of benchers and staff from the Law Society of Ontario, senior executives from LawPRO, and members of FOLA and the OBA to discuss and review issues of concern or relevance to the real estate bar.

The Group had planned to meet in February but rescheduled to March due to weather issues. The rescheduled March meeting was cancelled due to Covid. The recent meeting was held by video conference and provided an opportunity for the members to provide updates with respect to the state of real estate practice in light of the current conditions caused by Covid-19.

A further meeting is planned for later this summer when substantive issues can be discussed.

### **SUSPENSION OF LIMITATION PERIODS UNTIL SEPTEMBER**

The Province of Ontario has extended the suspension of limitation periods and time periods in proceedings until September 11, 2020.

The extension does not affect matters under the *Construction Act* and court staff may accept for filing requisitions to note parties in default in construction lien actions. Parties affected by the time limits set out in the *Construction Act*, or its predecessor *Construction Lien Act*, should continue to operate within the timeframes specified in those statutes.

### **NEW ONTARIO LAND TRIBUNALS**

The Ontario government announced this month it is combining the Local Planning Appeal Tribunal, Environmental Review Tribunal, Board of Negotiation, Conservation Review Board and Mining and Lands Tribunal via the Ontario Land Tribunals.

The Ontario government announced on June 17, 2020 the new combined tribunals are intended to "make it faster to resolve land use planning disputes". Changes will take effect July 1, 2020. Further details are available [here](#).

If and when we receive further information of interest to the real estate bar, we will pass it along.

Stay up to date with FOLA's real estate information at <https://fola.ca/real-estate-law>.

*Merredith MacLennan and Eldon Horner*  
FOLA Real Estate Co-Chairs

Please note: The information provided herein is of a general nature only and is not intended to provide legal advice.